



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 ANTICIPATORY BAIL APPLICATION NO. 1379 OF 2024

Shakil @ Arbaaz Syed Jakir

VERSUS

The State Of Maharashtra

...

AND

926 ANTICIPATORY BAIL APPLICATION NO. 1294 OF 2024

Mujahid Syed Sabir Syed @ Majju Engineer

VERSUS

The State Of Maharashtra

...

Advocate for Applicant : Mr. Harshal P. Randhir

APP for Respondents: Mr. C.V. Bhadane

Advocate to assist the A.P.P. : Mr. Rohit Patwardhan h/f Mr. Satej S. Jadhav

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CORAM : SHIVKUMAR DIGE, J.
DATED : 20th SEPTEMBER, 2024.

PER COURT :-

1. Since names of the applicants in these applications are mentioned in the first information report, both the applications are being decided by this common order.

2. The applicants apprehends arrest in connection with crime No.116 of 2024 registered with Warangaon Police Station, district Jalgaon, for the offences punishable under Sections 302, 307, 504, 120-B of I.P.C.

3. It is prosecution's case that on 04.06.2024 around 1.30 p.m. when the informant was going on his motorcycle, it was dashed by the motor cycle of co-accused Rahil Sayyad @ Pahelwan. There was altercation between the informant and the co-accused. It is alleged that at that time, co-accused Rahil Sayyad @ Pahelwan called two persons from his mobile. They came there. At relevant time, the informant's acquaintance Arif Ali Sayyad came there and he tried to solve the quarrel. At that time, co-accused told Arif Ali that the applicants have told them to kill him and they assaulted Arif Ali with knife. It is alleged that co-accused Rahil gave a blow of knife on the chest and other parts of body of Arif. It is alleged that co-accused also assaulted the informant with knife with intention to kill him. Due to said assault, Arif Ali died on the spot. The allegations against the applicants are that on the say of the applicants, co-accused killed Arif Ali and also tried to kill the informant.

4. It is contention of the learned counsel for the applicants that the applicants have been falsely implicated in this case. The applicants were not present at the spot of incident. The incident occurred suddenly. Considering these facts, the custodial interrogation of the applicants is not required and requested to allow the applications.

5. It is contention of the learned APP alongwith learned counsel to assist the A.P.P. that co-accused while assaulting deceased Arif Ali had specifically stated that on the say of the applicants, they are assaulting Arif Ali. There was quarrel took place between the applicants and Arif Ali in the mooring on the same day and to take revenge of it, co-accused assaulted deceased and the informant on the say of the applicants. It shows active involvement of the applicants in the crime. Considering the allegations against the applicants, their custodial interrogation is required and requested to reject the applications.

6. I have heard all the learned counsel. Perused the F.I.R. and the police papers produced on record. The allegations against the applicants are that on their say co-accused assaulted the deceased and the informant with knife. It appears from the contents of F.I.R. that there was dash between the motorcycles of the informant and the co-accused and when their quarrel was going on, deceased came there. It shows that the deceased was not present at the time of incident. He came later on so no question of instigation to the co-accused to kill the deceased arises as alleged by the prosecution. Considering these facts, the custodial interrogation of the applicants is not required and I pass the following order:-

ORDER

- (i) The applications are allowed.
- (ii) The interim anticipatory bail granted to the applicants vide order dated 14.08.2024 and 29.07.2024, respectively, stand confirmed on the same terms and conditions:-

7. It is made clear that the observations made in this order are prima facie in nature only for the purpose of deciding these bail applications and the trial court shall not get influenced by the same while concluding the trial.

(SHIVKUMAR DIGE, J.)

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